

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA**

**HUNTINGTON DIVISION**

**JOHN BAXLEY, JR., et al.,**

**Plaintiffs,**

**v.**

**Case No.: 3:18-cv-01526**

**BETSY JIVIDEN, in her official capacity  
as Commissioner of the WEST VIRGINIA  
DIVISION OF CORRECTIONS AND  
REHABILITATION, et al.,**

**Defendants.**

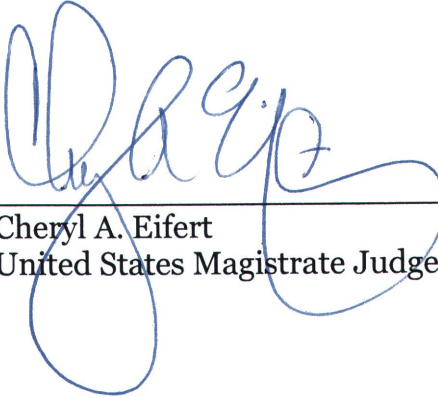
**MEMORANDUM OPINION AND ORDER SEALING MOTION**

The Court notes that Defendants' Motion for Leave to Take Deposition, (ECF No. 109), contains protected health information. Due to the confidential nature of the information contained in the motion, and the requirement that such information not be published, this Court **ORDERS** the Clerk to seal Defendants' Motion for Leave to Take Deposition. The undersigned is cognizant of the well-established Fourth Circuit precedent recognizing a presumption in favor of public access to judicial records. *Ashcraft v. Conoco, Inc.*, 218 F.3d 288 (4th Cir. 2000). As stated in *Ashcraft*, before sealing a document, the Court must follow a three step process: (1) provide public notice of the request to seal; (2) consider less drastic alternatives to sealing the document; and (3) provide specific reasons and factual findings supporting its decision to seal the documents and for rejecting alternatives. *Id.* at 302. In this case, Defendants' motion shall be sealed and will be designated as sealed on the Court's docket. The Court deems this sufficient notice to interested members of the public. The Court has considered less drastic

alternatives to sealing the document, but in view of the confidential nature of the information, no such alternatives are feasible at this time. Accordingly, the Court finds that sealing Defendants' Motion to for Leave to Take Deposition does not unduly prejudice the public's right to access court documents.

The Clerk is instructed to provide a copy of this Order to all counsel of record and any unrepresented parties.

**ENTERED:** February 13, 2020



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Cheryl A. Eifert  
United States Magistrate Judge